United Nations A/HRC/29/23

General Assembly

Distr.: General
4 May 2015

Original: English

Human Rights Council
Twenty-ninth session
Agenda items 2 and 8
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Follow-up to and implementation of the Vienna Declaration and Programme of Action

Discrimination and violence against individuals based on their sexual orientation and gender identity

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted to the Human Rights Council pursuant to its resolution 27/32, in which the Council requested the United Nations High Commissioner for Human Rights to update the report of the Office of the High Commission on violence and discrimination against individuals based on their sexual orientation and gender identity (A/HRC/19/41).

GE.15-08842 (E)

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I. Introduction

1. In 2011, pursuant to Human Rights Council resolution 17/19, the United Nations High Commissioner for Human Rights submitted a report to the Council in which she described a pattern of discrimination and violence directed at people in all regions on the basis of their sexual orientation and gender identity.[1] Almost three years on, in its resolution 27/32, the Council requested the High Commissioner to update the above-mentioned report with a view to sharing good practices and ways to overcome violence and discrimination, in application of existing international human rights law and standards.

2. The present report draws on recent findings of United Nations human rights bodies, regional organizations and non-governmental organizations, and information submitted by Governments, including 28 replies to a note verbale addressed to Member States on 29 December 2014.[2]

II. Recent developments

3. In recent years, Governments in all regions have pursued a variety of initiatives aimed at reducing levels of violence and discrimination based on sexual orientation and gender identity. For example, since 2011, 14 States have adopted or strengthened anti-discrimination and hate crime laws, extending protection on grounds of sexual orientation and/or gender identity and, in two cases, also introducing legal protections for intersex persons. Three States have abolished criminal sanctions for homosexuality; 12 have introduced marriage or civil unions for same-sex couples nationally; and 10 have introduced reforms that, to varying degrees, make it easier for transgender persons to obtain legal recognition of their gender identity.

4. In dozens of countries, police, judges, prison guards, medical staff and teachers are receiving gender and sexuality sensitivity training, anti-bullying programmes have been launched in schools, and shelters have been built to house homeless lesbian, gay, bisexual and transgender (LGBT) youth. Popular television programmes have integrated LGBT characters in a positive way and celebrities have helped to raise awareness by "coming out" as LGBT persons themselves or speaking out in support of members of the LGBT community. In all regions, LGBT and intersex[3] human rights defenders are more vocal and visible — in several cases successfully challenging in the courts attempts by authorities to restrict their legitimate activities.

5. While these advances are welcome, they are overshadowed by continuing, serious and widespread human rights violations perpetrated, too often with impunity, against individuals based on their sexual orientation and gender identity. Since 2011, hundreds of people have been killed and thousands more injured in brutal, violent attacks — some of which are chronicled below. Other documented violations include torture, arbitrary detention, denial of rights to assembly and expression, and discrimination in health care,

[1] A/HRC/19/41.

[2] Replies are available on the website of the Office of the High Commissioner at www.ohchr.org/EN/Issues/Discrimination/Pages/SOGIHRC29Replies.aspx.

[3] While "LGBT" is used in the present report, other terms are used in different regions. References are also included to violations against intersex persons, who may have any sexual orientation or gender identity. United Nations human rights mechanisms have repeatedly addressed such violations together with those directed at LGBT persons.

education, employment and housing. These and related abuses warrant a concerted response from Governments, legislatures, regional organizations, national human rights institutions and civil society, as well as from United Nations bodies — the Human Rights Council included.

6. Concerns regarding the extent and gravity of violence and discrimination against LGBT and intersex persons have been raised repeatedly by United Nations human rights treaty bodies and special procedures. In recent years, the Office of the High Commissioner (OHCHR) has published a range of guidance and public information materials — including factsheets, booklets and short videos — and has sought to engage States in a constructive dialogue on ways to better protect the rights of LGBT and intersex persons. In July 2013, the High Commissioner launched UN Free & Equal (www.unfe.org), a global education campaign to combat homophobia and transphobia that has so far reached more than a billion people around the world through events and via traditional and social media.

7. The rights of LGBT persons have also been a focus of work going on across the wider United Nations system. In his message to the Oslo Conference on Human Rights, Sexual Orientation and Gender Identity, the Secretary-General described the fight against homophobia and transphobia as "one of the great, neglected human rights challenges of our time" and pledged to work for an end to criminalization and for action to tackle violence and prejudice. United Nations agencies are increasingly integrating issues of sexual orientation and gender identity into their programmatic work, including in the areas of development, education, labour rights, child rights, gender equality, refugee protection, HIV and public health.[4]

8. Human rights, sexual orientation and gender identity have also been addressed by regional organizations in Africa, the Americas and Europe. In 2014, the African Commission on Human and Peoples' Rights passed a resolution in which it condemned violence and other human rights violations based on real or imputed sexual orientation and gender identity; the Organization of American States approved its seventh resolution on human rights, sexual orientation and gender identity, having in 2013 adopted the Convention against all forms of Discrimination and Intolerance, which addresses these issues; the Inter-American Commission on Human Rights established the mandate of Rapporteur on the rights of LGBT and intersex persons, having established a dedicated unit in 2011; the European Union adopted guidelines on the promotion and protection of human rights of LGBT and intersex persons, and both the European Parliament and the Parliamentary Assembly of the Council of Europe adopted resolutions on the subject; and the European Court of Human Rights and the Inter-American Court of Human Rights issued several judgements affirming the rights of LGBT persons to equal treatment and protection under the law.

III. Applicable international standards and obligations

9. Application of international human rights law is guided by the fundamental principles of universality, equality and non-discrimination. All human beings, irrespective of their sexual orientation and gender identity, are entitled to enjoy the protection of international human rights law with respect to the rights to life, security of person and privacy, to freedom from torture and ill-treatment, discrimination and arbitrary arrest and

[4] See "The Role of the United Nations in Combatting Discrimination and Violence against Individuals Based on Sexual Orientation and Gender Identity", OHCHR, 2014.

detention, and to freedom of expression, association and peaceful assembly, and all other civil, political, economic, social and cultural rights.

10. States have well-established obligations to respect, protect and fulfil the human rights of all persons within their jurisdiction, including LGBT and intersex persons. These obligations extend to refraining from interference in the enjoyment of rights, preventing abuses by third parties and proactively tackling barriers to the enjoyment of human rights, including, in the present context, discriminatory attitudes and practices. Specific related obligations are elaborated below, building on analysis in the previous report (A/HRC/19/41) and evolving work of United Nations human rights mechanisms.

A. To protect individuals from violence

11. States have an obligation to exercise due diligence to prevent, investigate, punish and redress deprivation of life and other acts of violence. United Nations mechanisms have called upon States to fulfil this obligation by taking legislative and other measures to prohibit, investigate and prosecute all acts of targeted, hate-motivated violence and incitement to violence directed at LGBT and intersex persons, and to provide remedy to victims and protection against reprisals.[5] They have called for State officials to publically condemn such acts, and to record statistics on such crimes and the outcomes of investigations, prosecutions and remedial measures.[6] The application of the death penalty on the basis of sexual orientation and gender identity violates fundamental State obligations to protect the rights to life, privacy, equality before the law and freedom from discrimination.[7]

12. States also have an obligation not to return refugees to places where life or freedom would be threatened on account of actual or perceived sexual orientation and gender identity.[8]

B. To prevent torture and ill-treatment

13. States have an obligation to protect all persons, including LGBT and intersex persons, from torture and other cruel, inhuman or degrading treatment or punishment in custodial, medical and other settings. This obligation extends to prohibiting, preventing, investigating and providing redress for torture and ill-treatment in all contexts of State control, including by ensuring that such acts are offences under domestic criminal law.[9] State responsibility is engaged if public officials, including prison and police officers, directly commit, instigate, incite, encourage, acquiesce in or otherwise participate or are complicit in such acts, as well as if officials fail to prevent, investigate, prosecute and punish such acts by public or private actors.[10]

14. The medical practices condemned by United Nations mechanisms in this context include so-called "conversion" therapy, forced genital and anal examinations, forced and

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[5] See CCPR/C/KGZ/CO/2, para. 9; A/HRC/20/22/Add.2, paras. 5, 55, 76; CCPR/C/MWI/CO/1/Add.1, para. 10.

[6] See CCPR/C/MWI/CO/1, para. 7; A/HRC/26/30/Add.3, para. 88.

[7] See CCPR/C/MRT/CO/1, para. 8; A/67/275, paras. 36-38.

[8] See also UNHCR, Guidelines on international protection No. 9, HCR/GIP/12/09, 23 October 2012; CCPR/C/108/D/2149/2012.

[9] See CAT/C/GC/3, para. 39.

[10] See CAT/C/GC/2, paras. 15-19.

otherwise involuntary sterilization and medically unnecessary surgery and treatment performed on intersex children.[11]

C. To decriminalize homosexuality and to repeal other laws used to punish individuals on the basis of sexual orientation and gender identity

15. States have an obligation to protect the rights to privacy, liberty and security of the person, including the right not to be subjected to arbitrary arrest and detention. United Nations mechanisms have called upon States to fulfil these obligations by repealing laws used to punish individuals based on their sexual orientation and gender identity, including laws criminalizing homosexuality and cross-dressing, and have rejected attempts to justify such laws on grounds of the protection of public health or morals.[12] States must refrain from arresting or detaining persons on discriminatory grounds, including sexual orientation and gender identity.[13]

D. To protect individuals from discrimination on grounds of sexual orientation and gender identity

16. The protection of rights to equality before the law, equal protection of the law and freedom from discrimination is a fundamental obligation of States under international law, and requires States to prohibit and prevent discrimination in private and public spheres, and to diminish conditions and attitudes that cause or perpetuate such discrimination.[14] To this end, States should enact comprehensive anti-discrimination legislation that includes sexual orientation and gender identity among protected grounds.[15] States should review and repeal discriminatory laws and address discrimination against LGBT and intersex persons, including in the enjoyment of the rights to health, education, work, water, adequate housing and social security.[16]

17. States also have obligations to address discrimination against children and young persons who identify or are perceived as LGBT or intersex. This includes harassment, bullying in schools, lack of access to health information and services, and coercive medical treatment.[17] United Nations mechanisms have called upon States to legally recognize transgender persons' preferred gender, without abusive requirements, including sterilization, forced medical treatment or divorce.[18] They have called upon States to develop education campaigns and train public officials to combat stigma and discriminatory attitudes, to provide victims of discrimination with effective and appropriate remedies, and

[11] See A/HRC/22/53, paras. 76-79, 88; CRC/C/CHE/CO/2-4, paras. 42-43; CAT/C/DEU/CO/5, para. 20.

[12] See CCPR/C/50/D/488/1992, paras. 8.3-10; E/C.12/IRN/CO/2, para. 7; CEDAW/C/UGA/CO/7, paras. 43-44; CRC/C/GAM/CO/2-3, paras. 29-30; A/HRC/14/20, paras. 17-26; CCPR/C/KWT/CO/2, para. 30.

[13] See CCPR/C/GC/35, paras. 3, 17; A/HRC/4/40/Add.1, opinion 22/2006, para. 19; A/HRC/22/44, para. 38.

[14] See CCPR/C/PER/CO/5, para. 8; E/C.12/GC/20, paras. 7-11; CEDAW/C/GC/28, para. 18.

[15] See E/C.12/GC/20, para. 32 and 39; CEDAW/C/CRI/CO/5-6, para. 40; CRC/C/AUS/CO/4, paras. 29-30; CRC/C/CHE/CO/2-4, para. 25.

[16] See E/C.12/GC/20, para. 11, 27 and 32; E/C.12/IDN/CO/1, para. 6; CRC/C/IRQ/CO/2-4, paras. 19-20.

[17] See CRC/C/RUS/CO/4-5, paras. 24-25, 55-56, 59-60; CRC/C/GC/15, paras. 8, 31, 60.

[18] See CCPR/C/IRL/CO/3, para. 8; CCPR/C/IRL/CO/4, para. 7; CCPR/C/UKR/CO/7, para. 10; CEDAW/C/NLD/CO/5, paras. 46-47.

to ensure that perpetrators face administrative, civil or criminal responsibility, as appropriate.[19] States should also provide legal recognition and protection to same-sex couples[20] and protect the rights of their children, without discrimination.[21]

E. To protect rights to freedom of expression, association and assembly and to take part in the conduct of public affairs

18. States have obligations to protect rights to freedom of thought and expression, association and peaceful assembly without discrimination on the grounds of sexual orientation or gender identity. To that end, they should review and repeal discriminatory provisions in domestic legislation that have a disproportionate impact on the exercise of these rights by LGBT persons and others advocating for their rights. States should refrain from directly interfering with these rights and protect LGBT persons exercising these rights from attacks and reprisals through preventive measures and by investigating attacks, prosecuting perpetrators and ensuring remedy for victims.[22]

19. States must protect the right to take part in the conduct of public affairs, without discrimination, and ensure that LGBT and intersex persons and organizations defending their rights are consulted with regard to legislation and policies that affect their rights.[23] States should take measures to empower LGBT and intersex persons, and to facilitate their participation in economic, social and political life.[24]

IV. Homophobic and transphobic violence

A. Context

20. Due diligence requires States to ensure the protection of those at particular risk of violence — including, in the present context, those targeted because of their sexual orientation and gender identity.

21. United Nations human rights mechanisms continue to receive reports of homophobic and transphobic violence committed in all regions. Such violence may be physical (including murder, beatings, kidnapping and sexual assault) or psychological (including threats, coercion and the arbitrary deprivation of liberty, including forced psychiatric incarceration). These attacks constitute a form of gender-based violence, driven by a desire to punish individuals whose appearance or behaviour appears to challenge gender stereotypes.

22. In addition to "street" violence and other spontaneous attacks in public settings, those perceived as LGBT remain targets of organized abuse, including by religious

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[19] See CCPR/C/AUS/CO/5, para. 8; CRC/C/ZAF/CO/3-5, paras. 55-56; CAT/C/RUS/CO/5, para. 15; CEDAW/C/CRI/CO/5-6, para. 41; CCPR/C/KOR/CO/4, para. 8; CCPR/C/21/Rev.1/Add.13.

[20] See E/C.12/BGR/CO/4-5, para. 17; E/C.12/SVK/CO/2, para. 10; CCPR/C/JPN/CO/5, para. 29.

[21] See CRC/C/GC/15, para. 8.

[22] See CCPR/C/GC/34, para. 26; CCPR/C/GEO/CO/4, para. 8; A/HRC/25/55/Add.3, para. 36; A/HRC/26/29.

[23] See A/HRC/23/36/Add.2, para. 97; CEDAW/C/DEU/CO/6, para. 61; CCPR/C/IRL/CO/4, para. 7.

[24] See A/69/365, paras. 24, 76, 87-91; A/HRC/26/39/Add.2, para. 110(a).

[25] See also A/HRC/19/41, paras. 20-39.

extremists, paramilitary groups and extreme nationalists.[20] LGBT and gender non-conforming youth are at risk of family and community violence. Lesbians and transgender women are at particular risk because of gender inequality and power relations within families and wider society.[21]

23. Violence motivated by homophobia and transphobia is often particularly brutal, and in some instances characterized by levels of cruelty exceeding that of other hate crimes.[22] Violent acts include deep knife cuts, anal rape and genital mutilation, as well as stoning and dismemberment.[23]

24. United Nations experts have condemned the persistence of impunity for these violations and repeatedly called for investigation, prosecution and punishment, and reparations for victims.[24] Reported shortcomings include ineffective police action, failure to register cases, loss of documents, inappropriate classification of acts, including physical assault as a minor offence, and investigations guided by stereotypes and prejudices.[25]

25. In most countries, the absence of effective systems for recording and reporting hate-motivated violence, or "hate crimes", against LGBT persons masks the true extent of violence. Where they exist, official statistics tend to understate the number of incidents.[26] Victims are often reluctant to report their experiences for fear of extortion, breach of confidentiality or reprisals. In addition, prejudicial and inexact categorization of cases results in misidentification, concealment and underreporting.[27] Failure to investigate, prosecute and punish violations when reported also contributes to incomplete assessments of the scale of violence.[28]

B. Killings

26. Hate-motivated killings of LGBT individuals have been documented in all regions. The Special Rapporteur on extrajudicial, summary or arbitrary executions has noted "grotesque homicides" perpetrated with broad impunity, allegedly at times with the "complicity of investigative authorities" (A/HRC/26/36/Add.1, para. 85). Treaty bodies, special procedures and United Nations agencies continue to express alarm at such killings and related patterns of violence, including the murder of transsexual women in Uruguay[29] and of Black lesbian women in South Africa.[30] In an assault in Chile, a gay man was beaten and killed by neo-Nazis, who burned him with cigarettes and carved swastikas into his body.[31]

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[20] See A/HRC/26/50, paras. 10, 14-15; A/HRC/28/66, para. 11.

[21] See A/HRC/26/38/Add.1, para. 19.

[22] See A/HRC/20/16, paras. 71-72, and "An Overview of Violence against LGBTI Persons", annex, press release 153/14, Inter-American Commission on Human Rights (IACHR), 2014, p. 3.

[23] See A/HRC/26/36/Add.1, paras. 85-87.

[24] See CCPR/C/BOL/CO/3, para. 7; A/HRC/26/36/Add.1, paras. 85-88; CAT/C/GC/3, paras. 8, 32.

[25] See A/HRC/23/49/Add.4, para. 23; A/HRC/26/36/Add.1, para. 86.

[26] See CCPR/C/URY/CO/5, para. 12; A/HRC/20/16, para. 71.

[27] See A/HRC/20/16, paras. 18, 71.

[28] See CCPR/C/GTM/CO/3, para. 11; CCPR/C/DOM/CO/5. The IACHR notes a "major underreporting" of acts of violence against lesbians (see footnote 28, p. 4).

[29] CCPR/C/URY/CO/5, para. 12.

[30] See A/HRC/20/16, paras. 55, 73; CERD/C/GC/34, para. 23.

[31] OHCHR, briefing note on Chile, 30 March 2012.

27. Data are patchy but, wherever available, suggest alarmingly high rates of homicidal violence. In Brazil, one of relatively few countries where the Government publishes an annual report on homophobic violence, the authorities documented 310 murders in 2012 in which homophobia or transphobia was a motive.[38] The Inter-American Commission on Human Rights reported 594 hate-related killings of LGBT persons in the 25 States members of the Organization of American States between January 2013 and March 2014.[39] In its resolution 275, the African Commission on Human and Peoples' Rights condemned increasing violence and other human rights violations based on imputed or real sexual orientation or gender identity. The European Parliament (resolution 2013/2183(INI)) and the Council of Europe (resolution 1948 (2013)) have also regularly expressed their concerns.

28. Reporting from non-governmental organizations underscores the prevalence of fatal violence. The Trans Murder Monitoring project, which collects reports of homicides of transgender persons in all regions, lists 1,612 murders in 62 countries between 2008 and 2014, equivalent to a killing every two days.[40] The National Coalition of Anti-Violence Programs in the United States of America reported 18 hate violence homicides and 2,001 incidents of anti-LGBT violence in the United States in 2013.[41]

29. Terrorist groups may target LGBT persons for punishment, including killings.[42] In February 2015, photos appeared to show several men, allegedly accused of homosexual acts, being pushed off a tower to their deaths by militants of the so-called Islamic State in Iraq and the Levant (ISIL).[43]

30. LGBT persons have also been victims of so-called "honour" killings, carried out against those seen by family or community members to have brought shame on a family, often for transgressing gender norms or for sexual behaviour, including actual or assumed homosexual conduct.[44]

C. Other violence, including sexual violence

31. United Nations experts continue to express their alarm at non-lethal violence directed at individuals on the grounds of their sexual orientation or gender identity. Examples include cases of gay men who have been kidnapped, beaten and humiliated, with film clips of their abuse shared on social media,[45] and of lesbians assaulted and raped because of their sexual orientation.[46] In the Syrian Arab Republic, there have been reports of rape and torture of men assumed to be gay perpetrated by security agents and by non-State armed groups.[47] Concerns have also been expressed about the risk to human rights

[38] Second report on homophobic violence in Brazil (2012). Department of Human Rights, June 2013 (available at www.sdh.gov.br/noticias/2013/junho/numero-de-denuncias-de-violencia-homofobica-cresceu-166-em-2012-diz-relatorio).

[39] IACHR (see footnote 28), p. 1.

[40] Trans Murder Monitoring results update, November 2014 (available at http://tgeu.org/tmm/).

[41] *Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Hate Violence in 2013*, National Coalition of Anti-Violence Programs, New York, 2014 (available at http://avp.org/resources/avp-resources/315).

[42] See CRC/C/IRQ/CO/2-4, paras. 27-28.

[43] OHCHR, press briefing notes on ISIL/Iraq, 20 January 2015.

[44] See A/HRC/23/47/Add.2, para. 49.

[45] A/HRC/26/50, para. 14.

[46] See CEDAW/C/GUY/CO/7-8, para. 22; A/HRC/20/16, paras. 55, 71, 73, 76.

[47] A/HRC/25/65, para. 67-71. Oral update of the Independent International Commission of Inquiry on the Syrian Arab Republic, 18 March 2014.

defenders working to uphold the rights of LGBT persons, some of whom have been subjected to violence, threats and verbal denigration.[48]

32. In the United States, recent government figures show that the number of bias-motivated incidents based on sexual orientation ranks second only to racist incidents among single-bias hate crimes.[49] A Europe-wide survey of 93,000 LGBT persons conducted in 2013 for the European Union Agency for Fundamental Rights found that a quarter of all respondents had been attacked or threatened with violence in the previous five years.[50] A survey conducted in 2012 by the non-governmental organization Stonewall in the United Kingdom of Great Britain and Northern Ireland found that one in six LGBT respondents had experienced a hate crime or incident in the previous three years; of those, 75 per cent had not reported the experience to the police.[51]

33. Treaty bodies and special procedures continue to express concern at rhetoric used to incite homophobic and transphobic hatred and related violence.[52] Such language is used by some political and community leaders to promote negative stereotypes, stir up prejudice and harass particular individuals, especially during electoral periods. The High Commissioner has expressed concern at inflammatory rhetoric used in Belarus, the Gambia and Honduras.[53] The Committee on the Rights of the Child has criticized statements by the Holy See as contributing to the stigmatization of, and violence against, LGBT adolescents and children raised by same-sex couples,[54] and about the negative impact of hate speech on LGBT and intersex adults and children in Switzerland.[55]

D. Torture and ill-treatment

34. The Committee against Torture and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment have continued to express concerns at the torture and ill-treatment of LGBT persons in detention by or with the acquiescence of State officials.[56]

35. Reported cases include the arrest, beating and ill-treatment by police in Zimbabwe of 44 members of an LGBT organization.[57] Sixteen gay and transgender individuals in the United States were allegedly subjected to solitary confinement, torture and ill-treatment, including sexual assault, while in detention in immigration facilities.[58] A woman was reportedly arrested in Bangladesh for being a lesbian, and subsequently beaten and raped by police while in custody.[59] In Egypt, four people arrested on the basis of their alleged sexual

[48] See A/HRC/25/55/Add.3, paras. 433-435, 480-482.

[49] Uniform Crime Reports, 2013 Hate Crime Statistics, U.S. Department of Justice, 2014 (available at www.fbi.gov/about-us/cjis/ucr/hate-crime/2013).

[50] *EU LGBT Survey: Results at a Glance*, European Union Agency for Fundamental Rights, 2013, p. 7.

[51] *Homophobic Hate Crime: the Gay British Crime Survey 2013*, Stonewall, 2013, pp. 116-117.

[52] See CCPR/C/KR/CO/3, para. 10; A/67/357, para. 75; see also European Court of Human Rights, application 1813/07, 9 May 2012.

[53] Navi Pillay, "Prejudice fuels the denial of rights for LGBT people", *Jakarta Post*, 30 April 2014. See A/HRC/22/47/Add.1, para. 91.

[54] CRC/C/VAT/CO/2, para. 25.

[55] CRC/C/CHE/CO/2-4, para. 24.

[56] See A/HRC/19/61/Add.4, paras. 168, 172; CAT/C/KGZ/CO/2, para. 19.

[57] A/HRC/22/53/Add.4, para. 162.

[58] Ibid., para. 178.

[59] See CCPR/C/108/D/2149/2012, para. 2.2.

orientation and/or gender identity reportedly faced sexual assault by other inmates while in detention.[60]

36. The Special Rapporteur on violence against women, its causes and consequences has highlighted similar cases, noting that those with a non-heterosexual orientation, or whose gender expression did not fall into exact categories of female and male, were vulnerable to targeted abuse both by staff and by other prisoners. She expressed concern about lesbian women being placed in cells with men if they refused the sexual advances of prison staff. Female prisoners whom guards viewed as "masculine" in appearance were subjected to harassment, physical abuse and "forced feminization". Transgender prisoners face particularly harsh circumstances. In one case, in Guatemala, a transgender woman was allegedly raped more than 80 times while in detention.[61]

37. Some States continue to subject men suspected of homosexual conduct to anal examinations in order to "prove" their homosexuality. Such examinations have been described as "medically worthless" and condemned by the Committee against Torture, the Special Rapporteur on torture and the Working Group on Arbitrary Detention; all have held that the practice contravenes the prohibition on torture and ill-treatment.[62]

38. Other medical procedures that can, when forced or otherwise involuntary, breach the prohibition on torture and ill-treatment include "conversion" therapy, sterilization, gender reassignment, and unnecessary medical interventions involving intersex children (see paras. 14 above and 52, 53 and 70 below).

E. Positive developments since 2011

39. States have adopted a range of measures with a view to addressing homophobic and transphobic violence, including some highlighted in responses to the note verbale soliciting inputs for the present report. New or strengthened anti-hate crime laws have been enacted in several States, including Albania, Chile, Finland, Georgia, Greece, Honduras, Malta, Montenegro, Portugal and Serbia. Such laws can play an important role in facilitating the prosecution and punishment of perpetrators of hate-motivated violence and in establishing homophobia and transphobia as aggravating factors for the purposes of sentencing.

40. Other notable initiatives include the establishment of specialized hate crime prosecution units (Brazil, Honduras, Mexico, Spain), and an interagency working group on urgent cases (Colombia); improved police training and sensitization (Canada, Denmark, France, Montenegro, Philippines) and new policing guidelines (Spain, United Kingdom); national hotlines to report homophobic incidents (Brazil, Netherlands) and surveys to improve hate-crime data collection (Belgium (Flanders), Canada); a national task force on gender- and sexual orientation-based violence (South Africa); policies and protocols for ensuring the dignity and safety of transgender prisoners (Brazil, Canada); training materials on the rights of LGBT prisoners (Ecuador); and investigations by the human rights commission of allegations of torture and ill-treatment of LGBT and intersex detainees (Nepal).

[60] A/HRC/27/72, EGY 4/2014.
[61] A/68/340, paras. 58, 59, 63.
[62] A/HRC/22/53, paras. 76–79.

V. Discrimination[63]

41. The Human Rights Committee and the Committee on Economic, Social and Cultural Rights have repeatedly urged States to tackle both direct and indirect discrimination against all persons, including LGBT and intersex persons.[64] States have an obligation to ensure that laws, policies and programmes executed by State authorities do not discriminate against individuals. They also have an obligation to address discriminatory practices, including by private actors, and to take action to prevent, diminish and eliminate the conditions and attitudes that contribute to substantive or de facto discrimination.

42. Discrimination against LGBT individuals is often exacerbated by other identity factors, such as sex, ethnicity, age and religion, and socioeconomic factors, such as poverty and armed conflict.[65] The impact of such multiple forms of discrimination may be felt at an individual level and a societal one, as LGBT persons, deprived of access to such basic rights as employment, health, education and housing find themselves in poverty, cut off from economic opportunity.[66] Studies undertaken in several countries suggest that rates of poverty, homelessness and food insecurity are higher among LGBT individuals than in the wider community.[67] The World Bank has documented the negative impact of homophobia on economic growth and development.[68]

A. Discriminatory laws

1. Laws criminalizing homosexuality and other laws used to penalize individuals because of sexual orientation or gender identity

43. States that criminalize consensual homosexual acts are in breach of international human rights law since these laws, by their mere existence, violate the rights to privacy and non-discrimination. Arrests and the detention of individuals on charges relating to sexual orientation and gender identity — including offences not directly related to sexual conduct, such as those pertaining to physical appearance or so-called "public scandal" — are discriminatory and arbitrary.[69] Since its landmark decision in *Toonen v. Australia* (communication No. 488/1992) in 1994, the Human Rights Committee and other mechanisms have repeatedly urged States to reform laws criminalizing consensual same-sex conduct, and welcomed their repeal.

44. At least 76 States retain laws that are used to criminalize and harass people on the basis of sexual orientation and gender identity or expression, including laws criminalizing

[63] See also A/HRC/19/41, paras. 40-47.

[64] See E/C.12/GC/20, paras. 7-11; CCPR/C/PER/CO/5, para. 8.

[65] See CRC/C/GC/15, para. 8; A/HRC/20/16, paras. 17, 23-27; A/HRC/26/50, para. 15; CEDAW/C/GC/28, para. 18.

[66] See A/HRC/27/55, paras. 64-66; E/C.12/PER/CO/2-4, para. 5.

[67] See Lucas Paoli Itaborahy, *LGBI people living in poverty in Rio de Janeiro* (London, Micro Rainbow, 2014); and Gary J. Gates, "Food Insecurity and SNAP (Food Stamps) Participation in LGBT Communities", Williams Institute, February 2014.

[68] M.V. Lee Badgett, "The economic cost of stigma and the exclusion of LGBT People: a case study of India", World Bank Group, 2014.

[69] See CCPR/C/BLZ/CO/1, para. 13; CCPR/C/PHL/CO/4, para. 10; CCPR/C/SLV/CO/6, para. 3(c).

consensual, adult same-sex relationships.[70] Sometimes inherited as colonial-era legislation, these laws typically prohibit certain types of sexual activity or any intimacy between persons of the same sex. Cross-dressing or "imitating the opposite sex" is also sometimes penalized.[71] Wording often refers to vague and undefined concepts, such as "crimes against the order of nature" or "morality", "debauchery", "indecent acts" or "grave scandal".[72] Penalties include lashings, life imprisonment and the death penalty.

45. Human rights mechanisms continue to emphasize links between criminalization and homophobic and transphobic hate crimes, police abuse, torture, family and community violence and stigmatization, as well as the constraints that criminalization put on the work of human rights defenders.[73] The Special Rapporteur on freedom of religion or belief has noted that these laws may give a pretext to vigilante groups and other perpetrators of hatred for intimidating people and committing acts of violence.[74]

2. Death penalty

46. In the Islamic Republic of Iran, Mauritania, Saudi Arabia, the Sudan and Yemen, and in parts of Nigeria and Somalia, the death penalty may be applied in cases of consensual homosexual conduct. Death is also the prescribed punishment for homosexuality in the revised penal code of Brunei, although relevant provisions have yet to take effect.

47. The application of the death penalty in this context represents a grave violation of human rights, including the rights to life, privacy and non-discrimination. The Human Rights Committee and the Committee on Economic, Social and Cultural Rights have repeatedly expressed concern about death sentences for consensual adult sexual conduct.[75] The Special Rapporteur on extrajudicial, summary or arbitrary executions has reiterated that death sentences may only be imposed for the most serious crimes and that offences related to homosexual conduct and sexual relations between consenting adults do not meet that threshold.[76]

3. "Anti-propaganda" laws

48. In the past two years, laws have been enacted or proposed in several States that seek to restrict public discussion of sexual orientation under the guise of "protecting minors" from information on so-called "non-traditional sexual relations".[77] These laws, sometimes called "anti-propaganda" laws, are often vaguely worded and arbitrarily restrict the rights to freedom of expression and assembly. They also contribute to ongoing persecution of members of the LGBT community, including young persons who identify or are perceived as LGBT.[78] The Special procedures mandate holders on human rights defenders, on freedom of opinion and expression and on freedom of peaceful assembly and of association

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[70] Lucas Paoli Itaborahy and Jingshu Zhu, *State-sponsored Homophobia*, International Lesbian, Gay, Bisexual, Transgender and Intersex Association (ILGA), Brussels, 2014), p. 21. Mozambique and Palau have decriminalized homosexuality since the publication of the report.

[71] See CCPR/C/KWT/CO/2, para. 30.

[72] See CCPR/C/PHL/CO/4, para. 10, CCPR/C/ETH/CO/1, para. 12.

[73] See A/HRC/26/29, para. 27, CCPR/C/SLE/CO/1, para. 11.

[74] A/HRC/28/66, para. 42.

[75] See CCPR/C/YEM/CO/5, para. 13, E/C.12/IRN/CO/2, para. 7.

[76] See A/67/275, paras. 36-38, A/HRC/27/23, para. 28.

[77] See CEDAW/C/KGZ/CO/4, para. 9.

[78] See CCPR/C/106/D/1932/2010, para. 10.8, CCPR/C/ITU/CO/3, para. 8.

have expressed concerns in this context about developments in Kyrgyzstan, Nigeria, the Republic of Moldova, the Russian Federation, Uganda and Ukraine.[79]

49. In some cases, these laws have been accompanied by bans on non-governmental organizations receiving funding from abroad, allegedly in order to curb the influence of "foreign agents".[80] Such measures put defenders at risk of arrest, violence and discrimination, and can threaten rights relating to, inter alia, health, education, cultural expression and information.[81]

B. Discriminatory practices[82]

1. Health care

50. Laws criminalizing homosexuality and the discriminatory policies, practices and attitudes of health-care institutions and personnel adversely affect the quality of health services,[83] deter individuals from seeking services,[84] and may lead to the denial of care or to an absence of services that respond to the specific health needs of LGBT and intersex persons.[85]

51. The negative health impact of laws criminalizing homosexuality has been widely acknowledged, including by the World Health Organization (WHO), the United Nations Development Programme (UNDP), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the treaty bodies and the special procedures of the Human Rights Council.[86] The Global Commission on HIV and the Law found, for instance, that in Caribbean countries with laws that criminalize homosexuality, almost one in four men who have sex with men is HIV positive; the equivalent figure in Caribbean countries with no such laws is one in 15.[87]

52. There is mounting concern about so-called "conversion therapies" intended to "cure" homosexual attraction. Such therapies have been found to be unethical, unscientific and ineffective and, in some instances, tantamount to torture – leading to successful legal challenges and bans in several countries.[88] In Ecuador, concerns have been raised about

[79] See A/HRC/23/51, UKR 3/2012; A/HRC/25/74, MDA 4/2013; RUS 3/2013, RUS 4/2013; A/HRC/26/21, NGA 1/2014, UGA 1/2014, UGA 1/2013; A/HRC/27/72, KGZ/1/2014.

[80] A/HRC/25/74, RUS 3/2013.

[81] See A/66/203, paras. 17-18; A/69/307, paras. 84-89.

[82] See also A/HRC/19/41, paras. 48-73.

[83] See CCPR/C/TUR/CO/1, para. 10; CEDAW/C/NOR/CO/8, paras. 33-34.

[84] See CCPR/C/JAM/CO/3, paras. 8-9; A/HRC/14/20, paras. 20-23. See also UN Free & Equal factsheet, "Criminalization" (available at www.unfe.org/en/fact-sheets).

[85] See A/64/272, para. 46.

[86] See "Secretary-General, in observance message, equates fight against homophobia with struggle to eliminate racism, promote gender equality", press release, 16 May 2013; E/C.12/JAM/CO/3-4, para. 28; and *Risks, Rights and Health*, Global Commission on HIV and the Law, UNDP, 2012, in particular pp. 44-54.

[87] Ibid., p. 45.

[88] See A/HRC/22/53, para. 88; Sharon Bernstein, "Supreme Court won't intervene in California ban on gay-conversion therapy", Reuters, 1 July 2014; and Ed Adamczyk, "Beijing court rules gay-conversion clinic treatments illegal", UPI, 19 December 2014.

"rehabilitation clinics" where lesbians and transgender youths have been forcibly detained with the collusion of family members and subjected to torture, including sexual abuse.[89]

53. Many intersex children, born with atypical sex characteristics, are subjected to medically unnecessary surgery and treatment in an attempt to force their physical appearance to align with binary sex stereotypes. Such procedures are typically irreversible and can cause severe, long-term physical and psychological suffering. Those to have called for an end to the practice include the Committee on the Rights of the Child, the Committee against Torture, the special procedures mandate holders on the right to health and on torture.[90]

54. Transgender persons often face particular difficulties in their access to appropriate health care. Health-care professionals may be insensitive to their needs, lack relevant knowledge and treat transgender persons in a discriminatory manner. Gender reassignment therapy, where available, is often prohibitively expensive. In certain situations, it is coerced.[91]

2. Education

55. Many children and adolescents perceived as LGBT or gender non-conforming experience discrimination, harassment and, in some cases, violent abuse both in and outside of school.[92] Such abuse can force students to skip or drop out of school, and can lead to feelings of isolation and depression, even suicide.

56. High levels of bullying have been recorded in all regions. A European Union study found that 80 per cent of school-age children surveyed heard negative comments or saw negative conduct directed at schoolmates perceived as lesbian, gay, bisexual or transgender.[93] A survey conducted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) of students in Thailand found that more than half of LGBT respondents had been bullied in the previous month, and more than 30 per cent had experienced physical abuse.[94] These findings mirror those of studies conducted in other countries.

57. Limiting or obstructing information related to sexuality or using materials that contain stereotypes and prejudices can contribute to violence and expose young LGBT persons to health risks.[95] Comprehensive sexuality education is part of the right to education and can be a tool for combating discrimination.

3. Employment

58. In most States, national laws do not provide adequate protection from employment-related discrimination on grounds of sexual orientation and gender identity.[96] In the absence

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[89] CCPR/C/LCU/CO/5, para. 12. See "IACHR expresses concern about violence and discrimination against LGBTI persons, particularly youth, in the Americas", press release, 15 August 2013.

[90] See CRC/C/CHE/CO/2-4, para. 42, CAT/C/DEU/CO/5, para. 20, A/HRC/22/53, para. 88, A/64/272, para. 49.

[91] See A/HRC/25/61, annex II.

[92] See E/CN.4/2001/52, para. 75, E/CN.4/2006/45, para. 113, CRC/C/RUS/CO/4-5, para. 59.

[93] *EU LGBT Survey*, EU Agency for Fundamental Rights (see footnote 50), p. 12.

[94] "Bullying targeting secondary school students who are or are perceived to be transgender or same-sex attracted", Mahidol University, Plan International Thailand, UNESCO, 2014, p. 14.

[95] See CRC/C/RUS/CO/4-5, para. 55, CRC/GC/2003/4, paras. 26, 28, A/65/162, paras. 4, 6, 23, 63, A/68/290, paras. 52, 54.

[96] ILGA, *State-sponsored Homophobia* (see footnote 70), p. 21.

of such laws, employers may fire or refuse to hire or promote people simply because they are seen as lesbian, gay, bisexual or transgender.[97] Where laws do exist, they may be poorly applied. Workplace benefits available to heterosexual employees may be denied to their LGBT counterparts. Surveys indicate that discrimination and verbal and other forms of harassment in the workplace are commonplace.[98]

4. Housing

59. LGBT persons may experience discrimination in access to housing as a result of unfair treatment by public and private landlords. Concerns include LGBT individuals and same-sex couples denied leases and evicted from public housing,[99] harassed by neighbours and forced out of their homes.[100] Many LGBT-identifying adolescents and young adults are thrown out of home by disapproving parents and end up on the streets, resulting in disproportionately high rates of homelessness among this group. A recent survey of 354 homeless support agencies in the United States suggested that some 40 per cent of homeless youth identify as LGBT, with family rejection the leading cause of homelessness among this group.[101]

5. Freedom of expression, association and assembly

60. United Nations human rights experts continue to highlight discriminatory restrictions on the rights to freedom of expression, association and assembly of LGBT persons and those defending their rights.[102] Concerns include direct censorship, bans on dissemination of information and restrictions on advocacy.[103]

61. LGBT organizations continue to have registration applications rejected, reviews delayed and legal registration revoked on discriminatory grounds.[104] Permission to hold meetings, workshops and cultural events may be denied in an attempt to suppress political and artistic expression.[105] Police officers have raided the offices of LGBT groups, arrested and harassed staff and volunteers, and confiscated materials, sometimes putting the privacy and safety of staff and supporters at risk.[106] The offices of LGBT organizations have been targets of vandalism, burglary and arson,[107] and such incidents are seldom investigated promptly.[108]

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[97] See A/69/318, para. 17, and "Discrimination at work on the basis of sexual orientation and gender identity: Results of pilot research" (GB.319/ELI/S/INF/1), International Labour Office, October 2013, pp. 2-3.

[98] *EU LGBT Survey*, EU Agency for Fundamental Rights (see footnote 50), p. 17; April Guasp, "Gay in Britain: Lesbian, Gay and Bisexual People's Experiences and Expectations of Discrimination", Stonewall, 2012, pp. 3, 19.

[99] See A/69/274, para. 12.

[100] See A/HRC/19/53, paras. 50, 51, 63.

[101] See "Serving Our Youth", Williams Institute, True Colors Fund and the Palette Fund, 2012, p. 3.

[102] See CCPR/C/GEO/CO/4, para. 8; A/HRC/26/30/Add.2, para. 77.

[103] See A/HRC/20/22/Add.2, para. 55; A/64/211, paras. 21-27.

[104] See A/69/307, para. 30.

[105] See A/HRC/23/34/Add.1, paras. 101-103.

[106] See A/HRC/22/53/Add.4, para. 162.

[107] A/HRC/25/74; MKD 2/2013; A/HRC/23/51; CRI 2/2012.

[108] See A/69/307, para. 86; A/HRC/22/53/Add.4, para. 162; A/HRC/25/71, para. 55; A/HRC/26/52, para. 33.

62. Private and State agents target "pride" marches, where LGBT persons and their supporters are sometimes subjected to violence and harassment.[109] In some States, such events are denied police protection or permits, sometimes under guise of threats to public morals or safety, abrogating the State's duty to uphold freedom of assembly and to protect LGBT persons from violence.[110] In the absence of proper police protection, marchers have been physically attacked and harassed by State and non-State actors, including far-right "skinhead" groups.[111]

63. Women defenders and those advocating for gender- and sexuality-related rights are often at particular risk because they are seen as challenging traditional assumptions about the role and status of women in society.[112]

6. Asylum and migration

64. Asylum and migration policies in this context vary considerably. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that some 42 States have granted asylum to individuals with a well-founded fear of persecution owing to sexual orientation or gender identity. At international borders, migrants and refugees may be subjected to invasive physical screenings and examinations and denied entry on discriminatory grounds.[113]

65. Practices in States granting asylum sometimes fall short of international standards. Officials may be insensitive to the conditions facing LGBT asylum-seekers, and review of applications is sometimes arbitrary and inconsistent.[114] In its judgement of 2 December 2014, the Court of Justice of the European Union ordered States to cease use of intrusive questioning and medical tests purportedly designed to reveal applicants' sexual orientation. Refugees and migrants are sometimes subjected to violence and discrimination while in detention facilities,[115] and when resettled, may be housed within communities where they experience additional sexuality- and gender-related risks. The refoulement of asylum seekers fleeing such persecution exposes them to the risk of violence, discrimination, criminalization and the death penalty.[116]

7. Family and community

66. States' responsibility to protect individuals from discrimination extends to the family sphere, where rejection and discriminatory treatment of and violence against LGBT and intersex family members can have serious, negative consequences for the enjoyment of human rights. Examples include individuals being physically assaulted, raped, excluded from family homes, disinherited, prevented from going to school, sent to psychiatric institutions, forced to marry, forced to give up custody of their children, punished for activist work and subjected to attacks on personal reputation. In States where homosexuality is criminalized, victims may be reluctant to report violence perpetrated by a

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[109] See A/HRC/23/34, paras. 49-50; A/HRC/26/36/Add.2, paras. 43-45.

[110] CCPR/C/109/D/1873/2009, para. 9.6; A/HRC/23/49/Add.4, para. 22.

[111] See A/HRC/10/12/Add.1, paras. 275-280; A/HRC/11/4/Add.1, paras. 289-2294; A/HRC/16/44/Add.1, paras. 1157-1164.

[112] See A/HRC/22/47/Add.1, para. 88, and "Study on the situation of women human rights defenders in Africa", Special Rapporteur on human rights defenders, African Commission on Human and Peoples' Rights, 2015.

[113] A/69/CRP.1, p. 15.

[114] UNHCR, HCR/GIP/12/09 (see footnote 8).

[115] See A/HRC/22/53/Add.4, para. 178.

[116] See CCPR/C/108/D/2149/2012, para. 2.4; CCPR/C/103/D/1833/2008, para. 9.2.

family member for fear of the criminal ramifications of revealing their sexual orientation. Lesbians, bisexual women and transgender persons are often especially at risk owing to gender inequalities and restrictions on autonomy in decision-making about sexuality, reproduction and family life.[117]

8. Recognition of relationships and related access to State and other benefits

67. While States are not required under international law to recognize same-sex marriage,[118] the Committee on Economic, Social and Cultural Rights has called upon States to provide for legal recognition of same-sex couples.[119] As at April 2015, 34 States offered same-sex couples either marriage or civil unions, which bestow many of the same benefits and entitlements as marriage.[120] Wherever States provide benefits such as pension and inheritance entitlements for unmarried heterosexual couples, the same benefits should be available to unmarried homosexual couples.[121]

68. Lack of official recognition of same-sex relationships and absence of legal prohibition on discrimination can result in same-sex partners being treated unfairly by private actors, including health-care providers and insurance companies. The United Nations Children's Fund (UNICEF), the Committee on the Rights of the Child and the Inter-American Court of Human Rights have expressed concern at discrimination against, and the lack of legal protection of, children of same-sex couples.[122]

9. Gender recognition and related issues

69. In spite of recent advances in several countries, transgender persons are generally still unable to obtain legal recognition of their preferred gender, including a change in recorded sex and first name on State-issued identity documents. As a result, they face multiple rights challenges, including in employment and housing, applying for bank credit or State benefits, or when travelling abroad.

70. Regulations in States that recognize changes in gender often impose abusive requirements as a precondition of recognition — for example, by requiring that applicants be unmarried and undergo forced sterilization, forced gender reassignment and other medical procedures, in violation of international human rights standards.[123]

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[117] See A/68/290, para. 38; A/HRC/20/16/Add.4, para. 20; A/HRC/22/56, para. 70; A/HRC/26/38/Add.1, para. 19.

[118] See CCPR/C/75/D/902/1999.

[119] E/C.12/BGR/CO/4-5, para17; E/C.12/SVK/CO/2, para. 10.

[120] ILGA, *State-sponsored Homophobia* (see footnote 70), pp. 26-28.

[121] See CCPR/C/CHN/HKG/CO/3, para. 23; CCPR/C/78/D/941/2000, para. 10.4; CEDAW/C/SRB/CO/2-3, para. 39(d); also European Court of Human Rights, applications 29381/09 and 32684/09, 7 November 2013, paras. 79-81.

[122] See CRC/C/GC/15, para.8 and CRC/C/GAM/CO/2-3, paras. 29-30; and "Eliminating discrimination against children and parents based on sexual orientation and/or gender identity", UNICEF, position paper no.9, 2014; and Inter-American Court of Human Rights, Atala Riffo and daughters v. Chile, 24 February 2012.

[123] See CCPR/C/IRL/CO/4, para. 7; CCPR/C/UKR/CO/7, para. 10; A/HRC/22/53, para. 88; also "Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement", OHCHR, UN-Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, 2014.

C. Positive developments since 2011

71. Three States (Mozambique, Palau and Sao Tome and Principe) have decriminalized consensual same-sex conduct, and several others have accepted recommendations to do so. The United Kingdom and several states in Australia have adopted measures to expunge the criminal records of individuals convicted of consensual homosexuality-related offences.

72. Fiji has added an anti-discrimination clause in its Constitution prohibiting discrimination based on sexual orientation, gender identity and gender expression, and Malta has added gender identity to the list of prohibited grounds of discrimination included in its Constitution. Anti-discrimination laws have also been strengthened in several States, including Chile, Cuba, Georgia, the Republic of Moldova, Montenegro, as well as in Australia and Malta, which became the first countries to expressly prohibit discrimination against intersex persons.

73. Legal recognition of same-sex relationships was introduced in at least 12 additional States, either in the form of civil marriage (Brazil, Denmark, France, Luxembourg, New Zealand, United Kingdom, Uruguay) or civil unions (Chile, Croatia, Ireland, Liechtenstein, Malta). Argentina, Denmark and Malta established new laws that allow transgender persons to obtain legal recognition of their gender identity on the basis of self-determination, while Australia (Australian Capital Territory), the Netherlands and Sweden removed abusive sterilization, forced treatment and divorce requirements. Argentina furthermore established access to free gender-affirming treatment for those who wish to receive such treatment. Nepal and Bangladesh created a legal "third gender" category, and new passport policies in Australia and New Zealand allow individuals to choose male, female or indeterminate gender markers. The Supreme Court of India affirmed the right of transgender persons to determine their own gender, and called upon the Government to ensure equal rights for transgender persons, including in access to health care, employment and education. Malta became the first State to prohibit sex-assignment surgery or treatment on intersex minors without their informed consent.

74. Other initiatives include the development of a new judicial protocol to guide adjudication of cases involving human rights violations on grounds of sexual orientation and gender identity (Mexico); implementation of employment-related anti-discrimination protections (Bolivia (Plurinational State of), Botswana); new guidance materials and training for police, teachers and/or other officials (Canada, Colombia, Croatia, Denmark, Montenegro, Norway, Mexico, Serbia, Spain); expansion of anti-bullying programmes and other anti-discrimination measures in schools (Albania, Australia, Brazil, Canada, Taiwan province of China, Ireland, Portugal, Sweden, United Kingdom), and annual reporting on discrimination and violence in schools (Brazil); LGBT suicide prevention programmes (Belgium, Japan, United Kingdom); a human rights-based comprehensive sexuality education curriculum for schools (South Africa); scholarships for transgender persons who enrol in vocational training (Brazil); construction of homeless shelters for LGBT youth (Albania, United States); and no longer requiring external corroboration of sexual orientation or gender identity for LGBT asylum-seekers (Italy, Portugal).

75. National plans of action were developed to tackle discrimination against LGBT persons in Brazil, Canada (Quebec), France, Norway, South Africa and the United Kingdom, and, in Uruguay, a plan to combat the social exclusion of transgender persons. Several States also launched national public education campaigns to counter homophobia and transphobia (Argentina, Australia, Belgium (Flanders), Brazil, Colombia, Cuba, Montenegro, Serbia, South Africa, United Kingdom, Uruguay). Mexico has officially designated 17 May as the National Day against Homophobia.

VI. Conclusions and recommendations

76. The present study is the second on violence and discrimination based on sexual orientation and gender identity requested by the Human Rights Council. While some progress has been made since the first study in 2011, the overall picture remains one of continuing, pervasive, violent abuse, harassment and discrimination affecting LGBT and intersex persons in all regions. These constitute serious human rights violations, often perpetrated with impunity, indicating that current arrangements to protect the human rights of LGBT and intersex persons are inadequate. There is as yet no dedicated human rights mechanism at the international level that has a systematic and comprehensive approach to the human rights situation of LGBT and intersex persons.

77. The recommendations below describe measures to protect individuals from the kinds of human rights violations documented above. They draw from good practices observed in the course of compiling the report and recommendations of United Nations human rights mechanisms.

A. States

78. The High Commissioner recommends that States address violence by:

(a) Enacting hate crime laws that establish homophobia and transphobia as aggravating factors for purposes of sentencing;

(b) Conducting prompt, thorough investigations of incidents of hate-motivated violence against and torture of LGBT persons, holding perpetrators to account, and providing redress to victims;

(c) Collecting and publishing data on the number and types of incidents, while providing for the security of those reporting;

(d) Prohibiting incitement of hatred and violence on the grounds of sexual orientation and gender identity, and holding to account those responsible for related hate speech;

(e) Training law enforcement personnel and judges in gender-sensitive approaches to addressing violations related to sexual orientation and gender identity;

(f) Ensuring that police and prison officers are trained to protect the safety of LGBT detainees, and holding to account State officials involved or complicit in incidents of violence;

(g) Banning "conversion" therapy, involuntary treatment, forced sterilization and forced genital and anal examinations;

(h) Prohibiting medically unnecessary procedures on intersex children;

(i) Ensuring that no one fleeing persecution on grounds of sexual orientation or gender identity is returned to a territory where his or her life or freedom would be threatened, that asylum laws and policies recognize that persecution on account of sexual orientation or gender identity may be a valid basis for an asylum claim; and eliminating intrusive, inappropriate questioning on asylum applicants' sexual histories, and sensitizing refugee and asylum personnel.

79. States should address discrimination by:

(a) Revising criminal laws to remove offences relating to consensual same-sex conduct and other offences used to arrest and punish persons on the basis of their sexual orientation and gender identity or expression; ordering an immediate moratorium on related prosecution; and expunging the criminal records of individuals convicted of such offences;

(b) Repealing so-called "anti-propaganda" and other laws that impose discriminatory restrictions on freedom of expression, association and assembly;

(c) Ensuring that anti-discrimination legislation includes sexual orientation and gender identity among prohibited grounds, and also protects intersex persons from discrimination;

(d) Integrating analysis of violations based on sexual orientation and gender identity in national plans of action, thereby ensuring coordination and adequate resourcing of related activities, accountability for perpetrators, and redress for victims;

(e) Sensitizing health-care workers to the health needs of LGBT and intersex persons, including in the areas of sexual and reproductive health and rights, suicide prevention, HIV/AIDS and trauma counselling;

(f) Establishing national standards on non-discrimination in education; developing anti-bullying programmes and establishing helplines and other services to support LGBT and gender-non-conforming youth; and providing comprehensive, age-appropriate sexuality education;

(g) Ensuring that housing policies do not discriminate against tenants based on sexual orientation and gender identity; and establishing shelters for homeless LGBT persons, with specific attention to youth, older persons and those in emergency situations;

(h) Providing legal recognition to same-sex couples and their children, ensuring that benefits traditionally accorded married partners – including those related to benefits, pensions, and taxation and inheritance – are accorded on a non-discriminatory basis;

(i) Issuing legal identity documents, upon request, that reflect preferred gender, eliminating abusive preconditions, such as sterilization, forced treatment and divorce;

(j) Supporting public education campaigns to counter homophobic and transphobic attitudes, and addressing negative, stereotypical portrayals of LGBT persons in the media;

(k) Ensuring that LGBT and intersex persons and organizations are consulted with regard to legislation and policies that have an impact on their rights.

B. National human rights institutions

80. The High Commissioner recommends that national human rights institutions address violence and discrimination against LGBT and intersex persons in the context of their respective mandates to promote and monitor effective implementation of international human rights standards at the national level.

C. Human Rights Council

81. **As the intergovernmental body with responsibility for promoting and protecting human rights worldwide, the Human Rights Council should keep itself regularly informed of patterns of violence and discrimination linked to sexual orientation and gender identity, as well as emerging State responses. To this end, OHCHR stands ready to submit further reports upon request, and current special procedures mandate holders should be encouraged to continue to report on related violations within their respective mandates.**